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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/669,046	09/23/2003	James F. Curry	FDN-2593/DIV	3996

7590

12/20/2005

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EXAMINER

YOON, TAE H

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/669,046	Applicant(s) CURRY ET AL	
	Examiner Tae H. Yoon	Art Unit 1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 October 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 6 and 15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-3, 6 and 15 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Allowability indicated in the last office action is withdrawn due to new ground of rejection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recited "molecular weight" is indefinite absent a particular molecular weight such as a number average or weight average molecular weight and weight thereof. The page 2 recites a molecular weight of <100,000 and claim 7 recites the same. Said number average or weight average molecular weight would be different from each other for the given polymer depending on the polydispersity (M_w/M_n), and said polydispersity could be 3, 5 or even 10.

The above rejection is maintained. Applicant states that the recited molecular weight range would encompass both number average or weight average molecular weight since the alkylated pyrrolidones have low molecular weight, but applicant failed to provide any evidence. Besides, US Pat. 5,231,070 to Narayanan et al show different number average and weight average molecular weight for polymers in table A and a molecular weight of 5,000 to 500,000 for alkylated pyrrolidones at col. 2, lines 51-63.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Narayanan (US 6,303,131).

Narayanan teaches an aqueous system comprising a particulate alkylated vinyl pyrrolidone polymer having a pyrrolidone content > 10% and an anionic emulsifier in table 1 wherein a single phase system is taught. Said alkylated vinyl pyrrolidone polymer is taught at col. 6, line 65 to col. 7, line 8. Grinding of said alkylated vinyl pyrrolidone polymer under a blanket of liquid nitrogen in order to obtain a particulate solid is taught at col. 7, lines 56-58. Thus, the teaching of said single phase system indicates that said particulate solid is extremely small falling within the scope of the instant invention inherently.

Thus, the invention lacks novelty.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as obvious over Narayanan (US 6,303,131).

Or, it would have been obvious to one of skilled in the art at the time of invention to make alkylated vinyl pyrrolidone polymer having the instant particle size in Narayanan since Narayanan teaches a single phase system which would require smallest particle size one can obtain absent showing otherwise.

Claims 1-3, 6 and 15 are rejected under 35 U.S.C. 103(a) as obvious over Narayanan (US 6,303,131) in view of Austgen, Jr. et al (US 5,336,712) and Carter et al (US 2,835,654).

The instant invention further recites other emulsifiers over Narayanan. However, the instant sodium lauryl sulfate and lignin sulfate are well known emulsifiers as taught by Austgen, Jr. et al (col. 13, footnote) and Carter et al (col. 12, line 43).


It would have been obvious to one of skilled in the art at the time of invention to utilize art well known sodium lauryl sulfate and lignin sulfate of Austgen, Jr. et al and Carter et al in Narayanan since Narayanan teaches employing an anionic emulsifier and since said sodium lauryl sulfate and lignin sulfate are well known anionic emulsifier absent showing otherwise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tae H Yoon
Primary Examiner
Art Unit 1714

THY/December 12, 2005